

No. 12286

United States
Court of Appeals
For the Ninth Circuit.

GERALD COLVIN, MRS. ROSE BORIES,
ARTHUR SANDFORD and GENIEVE
SANDFORD,

Appellants,

vs.

TIGHE E. WOODS, Housing Expediter, Office of
the Housing Expediter,

Appellee.

SUPPLEMENTAL
Transcript of Record

Appeal from the United States District Court,
Northern District of California,
Southern Division.

FILED
MAR 2 - 1950



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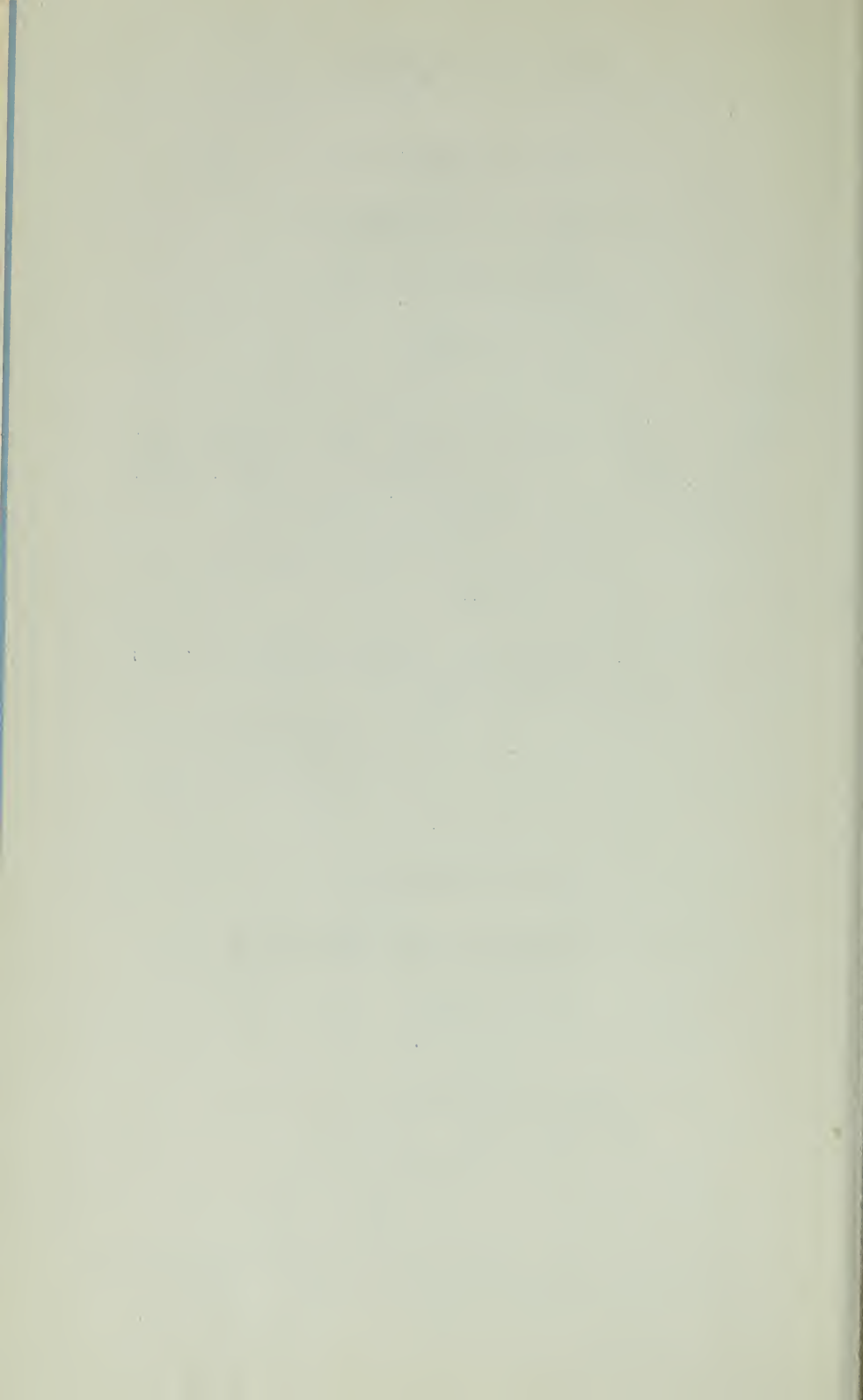
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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In the Southern Division of the United States
District Court for the Northern District of
California

No. 28,071-G

Before: Hon. Louis E. Goodman,
Judge.

TIGHE E. WOODS,

Plaintiff,

vs.

GERALD COLVIN, et al.,

Defendant.

REPORTER'S TRANSCRIPT

February 28, 1949

Appearances:

J. GREGORY DONOHUE, ESQ.,
For the United States.

DAVID FREIDENRICH, ESQ.,
For the Defendant.

The Clerk: Woods v. Colvin.

Mr. Donohue: Ready.

Mr. Freidenrich: Ready.

Mr. Donohue: If your Honor please, this is a suit involving two different apartments, flats, located at 440 Lily Street, in San Francisco—440 and 438 Lily Street. There are two tenants involved. The suit is brought for an order of restitu-

tion, both under the prior act and under the present act.

The maximum rents in our request for admissions have been denied. I don't know whether any facts exist that we can stipulate to or not. Counsel?

Mr. Freidenrich: The request for admissions, we did neither admit nor deny. We stated that we did not know what the actual legal rents were.

Mr. Donohue: I do have here the registration for these particular premises.

The Court: Well, is there any dispute as to whether this registration statement is correct or not?

Mr. Freidenrich: No, we do not dispute the registration statement is a registration statement. But that, in our opinion, does not determine what the maximum rent is. That is simply a report.

The Court: Well,——

Mr. Freidenrich: Not by the defendants in this action, you [2*] see, but by some third person.

The Court: The registration statement was by a prior owner of the place?

Mr. Freidenrich: Yes, your Honor.

The Court: Well, can't you stipulate to that, that that is so, and then leave the remaining question to be presented?

Mr. Freidenrich: We would stipulate that this report was filed with the old OPA, yes, your Honor, but we would not be able to stipulate as to whether it is correct or not. We have no way of knowing

* Page numbering appearing at top of page of original Reporter's Transcript.

that. This is simply a report of what the rent was on a certain date. It might be right; it might be wrong. And we don't know anything more than that.

The Court: Well, this is the registration, this is the statement that was filed with the OPA. That might be considered as a statement that was filed on—what is the date of it?

Mr. Donohue: August 10, 1942.

The Court: That is it.

Mr. Donohue: In each instance, they are dated the same date. Both registration statements are dated August 10, 1942.

The Court: Then it may be marked in evidence as a statement that was in the OPA records?

Mr. Freidenrich: Well, if your Honor please, I did intend to object to its introduction in evidence, and if your Honor would care to, I would like to be heard on that as a matter of legal evidence. I don't know whether this is the time to take [3] that up or not, but I am prepared.

The Court: Well, I don't take much time on these OPA cases. I have got too many cases to try and I ask counsel to get right down to the meat of it. What is the question involved in this case, for example? What is it that is in dispute here?

Mr. Donohue: Well, so far as we know, your Honor, the maximum rent, it is just a question of straight overcharges.

The Court: Is there any dispute as to the amount of money paid by the tenants?

Mr. Freidenrich: No dispute as to the amount of money paid, no, your Honor.

The Court: By the tenants over the periods during which they paid it?

Mr. Freidenrich: That's correct.

The Court: You can stipulate to that?

Mr. Freidenrich: That is correct.

The Court: Then the only question in the case is whether or not that was an excess payment or not?

Mr. Freidenrich: That is correct, your Honor.

The Court: Well, then, we don't even need any witnesses on this matter, do you?

Mr. Freidenrich: Well, that may not be true. But we believe that these reports are not admissible in evidence on the establishing of the maximum legal rent.

The Court: Then that is the question?

Mr. Freidenrich: That is the question. [4]

The Court: As to whether or not that is the maximum legal rent or not.

Mr. Freidenrich: That is correct, your Honor, from these reports. Now, if they have a witness who might testify as to what the rent actually was on the freeze date, which was March 15, 1942, that is another matter.

The Court: Well, then, may we have an understanding that that is the issue in this case and that if that is the maximum rent, the plaintiff is entitled to judgment, and if it isn't the maximum rent, the plaintiff is not entitled to a judgment?

Mr. Freidenrich: Well, we will so stipulate, your Honor.

The Court: Is that agreeable?

Mr. Donohue: That is agreeable.

The Court: All right, then we will just confine ourselves to these registration statements, so-called registration statements, and see where we go from there.

Mr. Donohue: I will call Mrs. Keil.

The Court: Very well.

EDITH KEIL

called on behalf of the plaintiff; sworn.

Q. (By the Clerk): Will you state your name to the Court?

A. Edith Keil, K-e-i-l.

Direct Examination

By Mr. Donohue:

Q. By whom and in what official capacity [5] are you employed, Miss Keil?

A. I am a rent examiner for the Office of the Housing Expediter.

Q. In that capacity, do you have custody and control, are you one of the persons having custody and control, of the official records relative to the maximum rents for premises located within the San Francisco Bay rental area? A. I am.

Q. I hand you these documents—

Mr. Freidenrich: Counsel, may I see those?

(Testimony of Edith Keil.)

Mr. Donohue: I thought you looked at them.

Mr. Freidenrich: I didn't look at them carefully.

(Documents examined by Mr. Freidenrich.)

Q. (By Mr. Donohue): I hand you this document and ask you to identify that document.

A. It is a registration for the lower flat at 440 Lily Street, \$25 per month is the maximum rent.

Q. And I hand you this document and ask you to identify it.

A. That is for the upper flat at 438 Lily Street, legal maximum rent \$27.

Q. Are those official records of your office, Miss Keil? A. They are.

Mr. Donohue: We offer these two documents into evidence.

Mr. Freidenrich: Now, if your Honor please, at this time we wish to interpose an objection, upon the ground that no proper foundation has been laid for the introduction of the [6] documents, that they are not the best evidence, that they are hearsay as to the defendants in this action, and I am prepared, if your Honor will permit me, to make a statement in that regard.

The Court: Yes, I will be glad to hear you. Before you do that, would you mind telling me, Mr. Freidenrich, who the defendant is that you represent and what his connection with this property is?

Mr. Freidenrich: I represent all of the defend-

(Testimony of Edith Keil.)

ants, your Honor, four defendants. And they did own the property during the time in question. They own it no longer. And so far as I know, they own no other controlled housing accommodations at this time.

The Court: And are you in a position to say when they became the owners of this property?

Mr. Freidenrich: Yes, your Honor. Excuse me, your Honor. They became the owners of the property on June 25, 1947.

The Court: Oh, I see. These registration statements were filed on August the 10th of 1942 by J. M. Finlay, who was then the landlord?

Mr. Freidenrich: Presumably, yes, your Honor.

The Court: All right.

Mr. Freidenrich: Now, in that connection, these registration statements that are offered here by the plaintiff in evidence are simply reports by someone as to what rent he was [7] receiving on the maximum rent date. The maximum rent, the rent regulation for housing, which was issued under the first act, the Emergency Price Control Act of 1942, defines maximum rent as follows: Section 4, which incidentally is pertinent because the complaint alleges there is a violation of Section 4A.

I will read to your Honor Section 4:

“Section 4. Maximum rents. Maximum rents (unless and until changed by the Administrator as provided in Section 5) shall be:

(Testimony of Edith Keil.)

“a. Rented on maximum rent date. For housing accommodations rented on the maximum rent date, the rent for such accommodations on that date.”

In other words, the actual rent that was paid on March 1, 1942 is the maximum rent for any specific housing accommodations. Thereafter, as your Honor knows, landlords had to report what their rents were on that date. That report date didn't occur until after July 1st of 1942 when the act went into effect.

Now, in our opinion, this report is no different than any other report of a private citizen that is filed with some public agency, and one specific example which comes to mind is the filing of an income tax return or report. And this Court, or at least this Circuit, had that matter before it in a case entitled *Greenbaum v. The United States*, in 80 Fed. 2d. 113. That was a case where the defendant, where Greenbaum, apparently was prosecuted for income tax evasion by the Government, and [8] in order to show income for prior years, they brought in, or they offered in evidence, returns filed by someone else reporting on defendant's business. And in the course of the opinion on appeal, the Circuit Court of Appeals states:

“A proper ruling on this assignment——”
which was an assignment of error,
“——requires, first, a consideration of a full income tax return as evidence of the true state of

(Testimony of Edith Keil.)

the company. A return is a statement by the taxpayer or by someone on his behalf, hence hearsay and only receivable in evidence as an admission. An admission is evidence against him who made it, or, under the proper circumstances, against his principal, co-conspirator or co-adventurer. The fact that income tax returns are public records (in quotes) can not lend them a greater evidentiary value than they intrinsically possess. In this respect a taxpayer's return differs from an assessment book showing facts gleaned from the observation of a public official in the regular course of duty, which facts may be proved by the books alone under the public record exception to the hearsay rule.

"Since the prosecution failed to show that the Greenbaums had any relationship with the accounting of the grocery business, even the original tax returns would not be receivable as their admissions.

"An equally serious error committed in the reception of [9] these cards was the inexplicable violation of the best evidence rule.

"Assuming that the cards introduced in evidence in this case were public records within the meaning of the above cases, that conclusion does not cure the violations of the hearsay and best evidence rules discussed above. Giving them the full import of the public records rule is merely to conclude that the figures on the card were accurately tran-

(Testimony of Edith Keil.)

scribed from an income tax return in Washington. It throws no light on who signed the original return, hence makes the original return no less inadmissible hearsay.”

The Court: Was this a suit for refund of taxes?

Mr. Freidenrich: No, this was a criminal suit.

The Court: This was a suit for fraud in filing of an income tax return?

Mr. Freidenrich: Yes, this was a criminal suit, and this evidence was admitted apparently in the District Court and the Circuit Court of Appeals reversed it and held that the introduction of these income tax returns prepared by someone else, no connection with the defendants, violated the hearsay rule, and also violated the best evidence rule. And we contend—

The Court: The returns were themselves prepared by someone else?

Mr. Freidenrich: Yes, your Honor.

The Court: Well, aren't there—I didn't want to interrupt [10] your argument—some other provisions of the OPA law, with respect to the filing of these statements and regulations issued pursuant to them, that state how the maximum rent shall be determined?

Mr. Freidenrich: Well, if your Honor please, the maximum rent, as I read it to your Honor, is defined in Section 4 as the rent for housing accommodations rented on the maximum rent date. The rent for such accommodations on that date. Now,

(Testimony of Edith Keil.)

the question is how do you prove what the rent was? Now, the plaintiff in this case attempts to prove the rent, which is the basis of its case, by offering a registration statement or statements filed by, presumably, the landlord at that time with it. Now, as to him, that is one thing. That might be an admission, or it could be used against him as an admission. But as to us, a subsequent owner, we contend that it is not admissible. They don't produce the landlord to at least identify his signature, so that we contend no proper foundation has been laid. In addition to that, it is hearsay to us. And thirdly, it is not the best evidence, it is simply a report by someone as to what the rent was; and just as the Court said in this income tax matter, the fact that it is filed with a public authority and becomes a public record doesn't make it any more, or doesn't give it any more evidentiary value than if it weren't filed. It is simply a report.

The Court: Well, isn't there something on that, aren't [11] there decisions and regulations as to the effect of these registration statements?

Mr. Donohue: Yes, your Honor, there is a most recent decision, in *Woods v. Tate*. I believe the decision is not yet officially reported. It may be in 170 Fed. 2d. by the Fifth Circuit. In this case the point was raised. The Court held that a registration was an official record and was entitled to be regarded as *prima facie* evidence of what the maximum rent was, as an official record. And hav-

(Testimony of Edith Keil.)

ing been introduced into evidence by one of the persons having custody of that record, that it is admissible into evidence. And furthermore, I believe there has been a recent amendment to it, permitting any government agency report to be used in evidence. I believe there is a recent amendment of that rule, in the rules themselves. Not the federal rules, but relating to the official reports. But if your Honor has available here 170 Fed. 2d., I believe——

The Court: 170 Fed. 2d?

Mr. Donohue: Yes.

The Court: Is it bound?

Mr. Donohue: No, it is in the advance sheets.

The Court: Well, there are several advance sheets for 170.

Mr. Donohue: Well, it is the last issue, *Woods v. Tate*. It is in the Fifth Circuit. It is 171, I believe, instead of 170. [12]

Mr. Freidenrich: While we are waiting, if your Honor please, I would like to finish from this quotation in this case.

The Court: Yes, go right ahead.

Mr. Freidenrich (Reading):

“The public nature of these cards may vitiate hearsay in the transcript, but it can not vitiate hearsay in what is transcribed. The fact that a record is public adds nothing to what is recorded.

“Defendants had opportunity to cross-examine neither the unknown person who made the original

(Testimony of Edith Keil.)

return nor the person who transcribed the purported entries therefrom.”

And in this case, of course, we do not have the opportunity to cross-examine the party who filed this original registration statement. It may be wrong; it may have been recorded with the wrong rent on it. Those things have occurred.

Now, I would also like to cite to your Honor a further case, and that is an OPA case, of *Bowles v. Kennemore*, in 139 Fed. 2d. 541, where the trial courts dismissed an injunction action similar to this, brought by the Price Administrator against the defendant upon the ground that the signature of the defendant, the defendant himself, to a report purportedly filed by the defendant with the government, the War Price and Rationing Board, had not been properly identified. The defendant refused to testify, and no one was produced who could [13] identify the defendant's signature. The appellate court reversed it, upon the ground that other evidence of the defendant's signature had been introduced sufficient to enable the lower court to determine that the signature on the report filed with the ration board was the signature of the defendant. But it is a reasonable inference that if the report that was offered in evidence for the signature of someone other than the defendant in that case, and the Government had produced no one to identify the signature, that obviously the lower court's decision would have stood. The only

(Testimony of Edith Keil.)

reason it was reversed is because apparently there was some evidence introduced as to the bearing on the question of the validity of the signature. But here there is no attempt to even verify the signature, and that goes to the question of lack of proper foundation.

But of course, if that were——

The Court: Well, according to that theory, Mr. Freidenrich, the enforcement of this statute could be completely aborted in the case of any property owner who formerly owned property and filed a registration statement upon the ground that if that former property owner could not be obtained, his presence could not be obtained by the OPA, in enforcing this statute, to show whether or not he actually filed this document,——

Mr. Donohue: As a simple rule of evidence, an admission of a predecessor in interest or title is certainly admissible as against a subsequent owner, just as a common matter of evidence. [14] A registration statement is a statement or an admission by the defendant as to the facts pertaining at a particular date. A subsequent owner acquires title to the property, the admissions of the subsequent parties in interest are binding on a subsequent predecessor in interest, just as a matter of common rule of evidence. That decision of *Woods v. Tate*——

The Court: Did you look through that last?

The Law Clerk: I looked through the last bunch we had. The third volume, the third number we

(Testimony of Edith Keil.)

had, of 170 Fed. 2nd, was missing. But I looked through all of 170 and 171.

Mr. Donohue: I believe it was No. 14.

The Law Clerk: No. 14?

Mr. Donohue: It is dated February—the last issue of the Fed. 2d. advance sheet, *Woods v. Tate* is reported, I believe.

The Court: Did this come out today or was it some time ago when you saw it?

Mr. Donohue: It was last week. I saw the decision before it was officially published, but this is in the last one.

The Court: Of course, there is also a section of the Judicial Code which provides for the production of business records.

Mr. Freidenrich: We wouldn't be in possession of records of a former owner.

Mr. Donohue: That, if your Honor please, is what I had reference to a moment ago when I said that particular section was amended. [15]

The Court: Of course, this case was one in which there was an order fixing the rent also made. In this *Tate* case that you refer to. It was an order made by the Rent Director, but directed to a prior owner of the property, and it was offered in evidence in this action for restitution of rents against a subsequent owner. The only difference between that case and this one is that there was an order of a rent director directed to the prior owner of the property, and the question of registration statements itself was not involved.

(Testimony of Edith Keil.)

Mr. Donohue: I believe there was some authorities cited in that opinion in which the question is——

The Court: There are a number of cases cited in here.

Mr. Donohue: The question is not new, as to the admissibility of a registration statement. It has been so long since——

The Court: The Court said here: “The fact that it was addressed to a prior owner of the property did not entitle the defendant to ignore the issuance and existence of this order. The rent regulations contemplate that a subsequent owner will be bound by a rent increase or reduction order issued by or through a previous owner of the same premises. Moreover, when the defendant came into possession of the property, if she lacked knowledge, as to the existence of any orders affecting the maximum rent allowable in the premises it was incumbent upon her to consult with the OPA authorities for such information, [16] in order that rent exacted from her tenant would not be at variance from the regulations. Not having done so, she was legally chargeable with knowledge of the order establishing maximum rent. We do know that this order was presumably valid and genuine, particularly in the absence of any proof or testimony to the contrary.”

Of course, that situation is somewhat different from the situation in this case, except that the

(Testimony of Edith Keil.)

reasoning as to the subsequent owner being bound would be applicable. But it seems to me that there were some cases and regulations that had to do with the filing of these registration statements.

Mr. Donohue: The regulation, of course, itself required a landlord to file the registration statement. Section 7 of the rent regulations requires that the landlord do so, showing what the rent was on the freeze date. And having a prior owner, the basis for it is that this is an official record, and there is testimony from this witness that this is an official record. Official records are presumed to be *prima facie* evidence of the facts therein stated; if they are official records, they are presumed to be regular.

Now, this was filed by a prior owner, and in it he states what the rent was on a particular date. As a matter of the rule of evidence, without regard to an official record, an admission of a prior owner is binding on his successor in interest, just as the rule of evidence. This question is not new. It has been some time since it has been raised. For that reason, I am not — if I had any idea that this matter would be presented, I would have——

The Court: Well, if this is the only question in the case, and if there is some doubt about it, I don't feel I would want to take snap judgment on it. Each side can present some memoranda on it. Offhand I would think——

Mr. Donohue: I think the matter is well set-

(Testimony of Edith Keil.)

tled as to the admissibility of these registration statements.

The Court: No person who acquired property could proceed to fix any rental he wanted without making some inquiry as to what the rent registration was on the property. However, of course, that isn't exactly the point that Mr. Freidenrich makes. His point, as I take it, is as to whether or not this would be sufficient *prima facie* evidence.

Mr. Freidenrich: That is correct, your Honor.

The Court: And offhand, I would think that it would be sufficient *prima facie* evidence, but it may be that Mr. Freidenrich may be right about it, and that there are cases where the enforcement of the OPA laws may become ineffective because of the inability of the Housing Expediter to actually be able to find out whether or not in March of 1942 that was the actual rent that was charged by some prior owner to a prior tenant, to a tenant at that time.

Mr. Freidenrich: I might say, your Honor, that it, and that there are cases where the enforcement I examined [18] the authorities quite thoroughly and couldn't find any decided cases with respect to OPA cases. You know, there is the Greenbaum case, which seemed to be the only case that I could find which was clear on the point, and it is in this Circuit; it seems to be clear as a rule of evidence, aside from whether it is the OPA or someone else. But on a question of evidence,—

The Court: That is a tax case, of course.

(Testimony of Edith Keil.)

Mr. Donohue: On a question of evidence.

Mr. Freidenrich: On a question of evidence it would seem quite clear that it was simply a report, that the government couldn't rely on a report unless they complied with the rules of evidence, the same as anybody else.

The Court: Well, I could see that there was a great distinction between the Greenbaum case and this case because there the question was the criminal responsibility of a taxpayer under a statute which imposed criminal sanctions, and the government there attempting to prove the fraud by furnishing a document that was filed by someone else.

The rent regulations, however, are an entirely different category. They have to do with conditions under which rent may be charged by the owners of property, and there are altogether different intendments that flow from that, that would make this question one of the weight of the testimony, rather than its admissibility. Of course, if it could be shown, or if there was [19] an issue raised and someone came along whom you produced, we will say, and testified, "Well, I was a tenant at 484 Oak Street in March 1944, and I paid \$35 a month and not \$29 a month rent for the place," then there would be an issue of fact raised as to whether or not this showing is overcome. But as to it being necessary for the plaintiff to show by the testimony of a witness the rent that was paid, and that no

(Testimony of Edith Keil.)

other type of testimony could be offered to prove it except the so-called firsthand testimony, either by the man who paid it or the man who received the rent, well, I am inclined to think that it would be a pretty heavy burden upon the part of the defendant in this case to demonstrate that, without that evidence, these records would be wholly of no weight, at least not of sufficient weight or sufficient prima facie weight to justify their admission in evidence. They are worth something, because these are records that are available to the present owner of this property, who could have gone and examined the records to see whether or not such a document was filed. And if there was doubt about it, they could have then proceeded to petition the rent administrator for an order fixing the rents, on the ground that this was an incorrect statement, that that was not the maximum rent. But there must be some credence given to these registration statements which are authorized to be filed by the law and the regulations. However, you see, the question isn't new and you have had it thrust on you today. Mr. [20] Freidenrich, I am sure, feels that there is merit in what he has presented here. Otherwise he wouldn't have presented it. Perhaps you both had better take a little time and we can just submit the matter, if you wish to, on the basis of whether or not these documents may be admitted or not.

Mr. Freidenrich: I would be agreeable to that,

(Testimony of Edith Keil.)

but I would like to call your Honor's attention to the registration statement at 438 Lily Street, in the event your Honor finally——

The Court: 438?

Mr. Freidenrich: Yes, there are two, one at 440 and one at 438.

The Court: Oh, yes.

Mr. Freidenrich: In the event your Honor finally decides to allow them to be introduced in evidence and they are thereafter evidence in the case. Your Honor will note that in that registration statement it can not be observed from it whether that figure that was set forth is rent on the maximum rent date by the week or by the month. It is not filled in.

The Court: Well, there doesn't seem to be any cross after the month, is there, for 440?

Mr. Freidenrich: Either the top or the bottom. So if they are relying upon that as their proof, and it is finally submitted, I submit to your Honor that there is no showing made in that case at all. I might state, if your Honor please,——

Mr. Donohue: Except that this is in connection with the [21] other registration statement. That is an upper and a lower flat in the same premises. The \$25 per month is clearly indicated; it would be an absurdity to assume that it was anything other than, from the document itself, a mere omission to indicate there, that the rent was four times as much on the upper flat. I think that would be an obvious and violent assumption.

(Testimony of Edith Keil.)

Mr. Freidenrich: I don't think it is a question of the Court assuming something; it is just a question of proof. The Court doesn't have the proof before it.

The Court: Well, are you both agreeable to submit the matter on the basis of the Court's ruling on this?

Mr. Freidenrich: Yes, your Honor.

Mr. Donohue: Yes, your Honor.

The Court: All right, then perhaps—have you filed any memoranda at all so far?

Mr. Freidenrich: No, but I can within five days, if your Honor desires.

The Court: Suppose you file—I think probably the burden would be upon you, having made the objection, so suppose you file the first memorandum in five days and then Mr. Donohue can file a reply in five days.

Mr. Donohue: Yes, sir.

The Court: And then if you wish to take *time reply*, you may do that, and take another five days. Then we will just mark [22] the matter submitted on the cause then. I think that we did everything else that we need for the purpose of deciding the case.

Mr. Freidenrich: That is agreeable.

The Court: All right.

The Clerk: These may be marked 1 and 2 for identification?

UNITED STATES OF AMERICA
OFFICE OF PRICE ADMINISTRATION
REGISTRATION OF RENTAL DWELLINGS
(TYPE OR PRINT PLAINLY - DO NOT FOLD)
(Do Not Use This Form for Hotels and Rooming Houses)

GENERAL INSTRUCTIONS

landlord is required to register separately each rental unit, whether occupied or vacant. A dwelling unit is a group of rooms for which a single rent is paid. Complete registration Statement in triplicate, remove carbons, and bring the three copies to the Area Rent Office. Use carbons in triplicate, for sections "D" & "E" if necessary. If dwelling unit was not rented at any time during the period between January 1, 1942 and July 1, 1942, an application to establish the Maximum Rent must be made on Form DD-112-2.

SECTION A. MAILING ADDRESS OF LANDLORD

Name of Landlord J.M. FINLEY

Address of Agent

Post Mail to: J.M. FINLEY

484 OAK ST.

City and State S.F. CALIF.

IDENTIFICATION

1. 440 LILY ST
Address of this rental dwelling unit

2. LOWER FLAT
Apartment number or location

3. FOUR
Number of Rooms in this dwelling unit

4. TWO
Total Number of dwelling units in this structure

SECTION B. MAILING ADDRESS OF TENANT

Name of Tenant E. BEATTY

Address 440 LILY ST.

City and State S.F. CALIF.

SECTION C. MAXIMUM LEGAL RENT

Read carefully and fill in every item which applies to this dwelling unit.

Not rented on March 1, 1942: \$ 25.00 per week () per month (X)

Not rented on March 1, 1942, but rented at any time between January 1, 1942 and February 28, 1942

Not last rented during that two-month period: _____, 1942.

Not rented on that date: \$ _____ per week () per month ()

Not rented at any time between January 1, 1942 and March 1, 1942, but rented before July 1, 1942.

Check one box:

() (a) Owner occupied or vacant between January 1, 1942 and March 1, 1942.

() (b) Newly constructed without priority rating.

() (c) Newly constructed with priority rating. (If checked, item 6 must also be filled in.)

Date first rented after March 1, 1942: _____, 1942

Rent on that date: \$ _____ per week () per month ()

Dwelling unit made available by a change which resulted in an increase or decrease in the number of dwelling units after March 1, 1942, but before July 1, 1942.

Date first rented after such change: _____, 1942

Rent on that date: \$ _____ per week () per month ()

Substantially changed after March 1, 1942, but before July 1, 1942. Check one box:

() (a) From unfurnished to fully furnished.

() (b) From fully furnished to unfurnished.

() (c) By a MAJOR CAPITAL IMPROVEMENT as distinguished from ordinary repair, replacement and maintenance.

Date first rented after such change: _____, 1942

Rent on that date: \$ _____ per week () per month ()

Dwelling unit newly constructed with a priority rating from the United States or any agency thereof.

Rent approved by agency granting priority: \$ _____ per week () per month ()

THE MAXIMUM LEGAL RENT FOR THIS DWELLING UNIT IS:

\$ 25.00 per week () per month (X)

Enter Maximum Legal Rent in accordance with the following instructions:

(a) If only one of the above items applies to this dwelling unit the Maximum Legal Rent is the rent entered for that item.

(b) If more than one of the above items apply to this dwelling unit the Maximum Legal Rent is the rent reported for the most recent date: except in the case of Item 6.

(c) If Item 6 applies to this dwelling unit the Maximum Legal Rent is the lower of the two rents entered in Item 3 and Item 6.

(d) If Item 6 applies to this dwelling unit you must also fill in the information required in Section "E".

Note: If any one of the items 3(b), 4 or 5 applies to this dwelling unit you must also fill in the information required in Item 3(a), 3(b), 4, or 5, on the grounds that the rent is higher than the rent generally prevailing for comparable housing accommodations on March 1, 1942.

Section E - See Note Section C. 7 *

If Item 3(b), 4 or 5 of Section C was filled in, set forth in specific detail the type and cost of:

(a) New construction

(b) A change in the number of dwelling units

(c) A change from unfurnished to fully furnished

(d) A major capital improvement

SECTION D. EQUIPMENT AND SERVICES INCLUDED IN THE RENT ON MARCH 1, 1942

(If any one of the items 2 to 5 of Section C apply to this dwelling unit check Equipment and Services included in the rent on the most recent date you entered in Section C.)

1. EQUIPMENT	Yes	No
Furniture	(X)	()
Running Water	(X)	()
Hot Water	()	(X)
Flush Toilet	(X)	()
Bathroom	(X)	()
Central Heating	()	(X)
Heating Stove	(X)	()
Mech. Refrigerator	()	(X)
Electricity Installed	(X)	()
Cooking Stove	(X)	()
If any equipment is shared, explain below:		

2. SERVICES	Yes	No
Garage	()	(X)
Heat or Heating Fuel	()	(X)
Cooking Fuel	()	(X)
Cold Water	(X)	()
Hot Water	()	(X)
Light	()	(X)
Ice or Refrigeration	()	(X)
Janitor Service	()	(X)
Garbage Disposal	()	(X)
Painting & Decorating	(X)	()
Interior Repairs	(X)	()
Exterior Repairs	(X)	()
List any other services:		

Are all equipment and services indicated above now included in the rent? Yes (X) No ()

WARNING

The rent for this dwelling unit on and after July 1, 1942 can be no more than the Maximum Legal Rent entered in Section C, Item 7.

A false statement on this form or an evasion or attempted evasion of the Maximum Rent Regulation may subject you to a \$5,000 fine or imprisonment for one year.

I HEREBY REPRESENT that all statements and entries given hereon are true and correct.

(Signature of Landlord or his Agent)

Dist.Ct. N D Cal.
No. 28071-G
F's Ex. 1 (Id)
Calbreath, Clerk

[Endorsed]: Filed July 7, 1949

UNITED STATES OF AMERICA
OFFICE OF PRICE ADMINISTRATION
REGISTRATION OF RENTAL DWELLINGS
(TYPE OR PRINT PLAINLY - DO NOT FOLD)
(Do Not Use This Form for Hotels and Rooming Houses)

AREA OFFICE
COPY

GENERAL INSTRUCTIONS
Landlord is required to register separately each rental unit, whether occupied or vacant. A dwelling unit is a group of rooms for which a single rent is paid. Complete registration Statement in triplicate, remove carbons, and bring the three copies to the Area Rent Office. Use one, in triplicate, for sections "D" & "E" if necessary. If dwelling unit was not rented at any time during the period between 1, 1942 and July 1, 1942, an application to establish the Maximum Legal Rent must be made on Form DD-112-2.

SECTION A. MAILING ADDRESS OF LANDLORD
Landlord J.M. FINLEY
of Agent
Mail to: J.M. FINLEY
484 OAK ST.
S.F. CALIF.

IDENTIFICATION
1. 438 LILY
Address of this rental dwelling unit
2. 1122
Apartment number or location
3. Number of Rooms in this dwelling unit
4. Total Number of dwelling units in this structure

SECTION B. MAILING ADDRESS OF TENANT
Name of Tenant F. MASINO
Address 438 LILY ST.
City and State S.F. CALIF.

Aug 10 1942
67819

SECTION C. MAXIMUM LEGAL RENT
Read carefully and fill in every item which applies to this dwelling unit.
rented on March 1, 1942: \$ 27.00 per week () per month ()
rented on March 1, 1942, but rented at any time between January 1, 1942 and February 28, 1942.
last rented during that two-month period: _____, 1942.
rented on that date: \$ _____ per week () per month ()
rented at any time between January 1, 1942 and March 1, 1942, but rented before July 1, 1942.
Check one box:
(a) Owner occupied or vacant between January 1, 1942 and March 1, 1942.
(b) Newly constructed without priority rating.
(c) Newly constructed with priority rating. (If checked, item 6 must also be filled in.)
first rented after March 1, 1942: _____, 1942
rented on that date: \$ _____ per week () per month ()
dwelling unit made available by a change which resulted in an increase or decrease in the number of dwelling units after March 1, 1942, but before July 1, 1942.
first rented after such change: _____, 1942
rented on that date: \$ _____ per week () per month ()
substantially changed after March 1, 1942, but before July 1, 1942. Check one box:
(a) From unfurnished to fully furnished.
(b) From fully furnished to unfurnished.
(c) By a MAJOR CAPITAL IMPROVEMENT as distinguished from ordinary repair, replacement and maintenance.
first rented after such change: _____, 1942
rented on that date: \$ _____ per week () per month ()
dwelling unit newly constructed with a priority rating from the United States or any agency thereof.
rent approved by agency granting priority: \$ _____ per week () per month ()
MAXIMUM LEGAL RENT FOR THIS DWELLING UNIT IS:
\$ 27.00 per week () per month ()
Maximum Legal Rent in accordance with the following instructions:
If only one of the above items applies to this dwelling unit the Maximum Legal Rent is the rent entered for that item.
If more than one of the above items apply to this dwelling unit the Maximum Legal Rent is the rent reported for the most recent date, except in the case of Item 6.
If Item 6 applies to this dwelling unit the Maximum Legal Rent is the lower of the two rents entered in Item 3 and Item 6.
If any one of the items 3(b), 4 or 5 applies to this dwelling unit you must also fill in the information required in Section "E".
Administrator may at any time order a decrease in the Maximum Legal Rent determined under Items 3(a), 3(b), 4, or 5, on grounds that the rent is higher than the rent generally prevailing for comparable housing accommodations on March 1, 1942.

SECTION D. EQUIPMENT AND SERVICES INCLUDED IN THE RENT ON MARCH 1, 1942

(If any one of the items 2 to 5 of Section C apply to this dwelling unit check Equipment and Services included in the rent on the most recent date you entered in Section C.)

1. EQUIPMENT	Yes	No
Furniture	(X)	()
Running Water	(X)	()
Hot Water	()	(X)
Flush Toilet	(X)	()
Bathroom	(X)	()
Central Heating	()	(X)
Heating Stove	()	(X)
Mech. Refrigerator	()	(X)
Electricity Installed	(X)	()
Cooking Stove	()	(X)
If any equipment is shared, explain below:		

2. SERVICES	Yes	No
Garage	()	(X)
Heat or Heating Fuel	()	(X)
Cooking Fuel	()	()
Cold Water	(X)	()
Hot Water	()	(X)
Light	()	(X)
Ice or Refrigeration	()	(X)
Janitor Service	()	(X)
Garbage Disposal	()	(X)
Painting & Decorating	(X)	()
Interior Repairs	(X)	()
Exterior Repairs	(X)	()
List any other services:		

Section E - See Note Section C. 7 *
If Item 3(b), 4 or 5 of Section C was filled in, set forth in specific detail the type and cost of:
New construction (c) A change from unfurnished to fully furnished
A change in the number of dwelling units (d) A major capital improvement

Are all equipment and services indicated above now included in the rent? Yes (X) No ()

WARNING
The rent for this dwelling unit on and after July 1, 1942 can be no more than the Maximum Legal Rent entered in Section C, Item 7.
A false statement on this form or an evasion or attempted evasion of the Maximum Rent Regulation may subject you to a \$5,000 fine or imprisonment for one year.
I HEREBY REPRESENT that all statements and entries given hereon are true and correct.

st.Ct. No Calif
23071-1
s. x. 2 (Id)
Calbreath, Clerk
Endorse: Filed July 7, 1949

(Signature of Landlord or his Agent)



(Testimony of Edith Keil.)

The Court: Mark them 1 and 2 for identification, and then I can rule on them when the case is submitted.

(Wherefore rent registration statements previously referred to were marked Plaintiff's Exhibits No. 1 and 2 for identification.)

CERTIFICATE OF REPORTER

I, Eldon W. Rich, Official Reporter, certify that the foregoing 23 pages is a true and correct transcript of the matter therein contained as reported by me and thereafter reduced to typewriting, to the best of my ability.

/s/ ELDON W. RICH.

[Endorsed]: Filed Nov. 16, 1949.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK TO
REPORTER'S TRANSCRIPT

I, C. W. Calbreath, Clerk of the District Court of the United States for the Northern District of California, do hereby certify that the following Reporter's Transcript was filed in the above-entitled case, and is herewith forwarded to the United States Court of Appeals for the Ninth Circuit, to be considered by it as part of the Record on Appeal herein, to wit:

Reporter's Transcript for February 28, 1949.

Witness my hand and seal of the District Court of the United States for the Northern District of California, this 17th day of November, 1949.

C. W. CALBREATH,
Clerk.

[Seal] By /s/ M. E. VAN BUREN,
Deputy Clerk.

[Endorsed]: Filed Nov. 17, 1949.

[Endorsed]: No. 12286. United States Court of Appeals for the Ninth Circuit. Gerald Colvin, Mrs. Rose Bories, Arthur Sandford and Genieve Sandford, Appellants, vs. Tighe E. Woods, Housing Expediter, Office of the Housing Expediter, Appellee. Supplemental Transcript of Record. Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed November 17, 1949.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for the Ninth Circuit.

